

P.O. Box 3009
Vallejo, California 94590
(707) 643-6611

Members and Staff

Delta Protection Commission (SB 1866, Johnston, 1992)

Meeting: Jean Harvie Community Center, Walnut Grove

Friday, January 29, 1993

Subject: Community Forum, Items from the Floor, Public Input

Sirs:

1) The map described in SB 1866 (Johnston, 1992) purportedly depicting the area legislated as to be "protected" under Section 12220 of the Water Code and allegedly on file with the Secretary of State cannot be found according to staff at the Secretary of State Office when inquired for by this writer.

Further, studying the map given me by Senator Johnston's staff, it is dated July 28, 1992. This writer, however, sees obvious discrepancies between what is on the map and the physical geographic features evident to the eye, for example the mapped description of Walnut Grove and the Walnut Grove I have driven in. One person who saw the map and also knows some of this area asked me if I thought the "blueprint might have been doctored?"

2) While Art XI of the California Constitution describes some participation of the legislature in county boundary changes, the California Constitution very specifically states about counties that: "Formation or consolidation (of a county) requires approval by a majority of electors voting on the question in each affected county." A County is both its territory and its governance. SB 1866 clearly places the governance of County land use decisions and policy making outside the governance of the elected County Board of Supervisors in the five affected counties and thus to be contrary to the provisions of the California Constitution.

3) The Supervisors of the five affected counties each took an oath and signed a witnessed statement "to support and defend ... the Constitution of the State of California." Thus any County Supervisor participating in the affairs of this Commission is in violation of his oath of office; in violation on two counts: a) Not defending and b) In participating in the subversion of his own Constitutional, elected, representational authority.

4) Among themselves the elected representatives of the five counties Boards of Supervisors and the affected cities annually authorize the expenditure of the order of \$50 million of dollars on legal talent each year to take care of legal matters of their local governments; taking up 10s if not 100s of thousands of square feet of floor space to house, furnish and equip; County Counsels and staffs, District Attorney staffs, court systems, etc. Why should not the electors expect their individual members of the County Boards of Supervisors to protect and defend the integrity of their own individual Constitutional, elected, representational authority, and offices?

5) No county supervisor or other elected representative was elected to represent his electors for any regional governance purpose.

Signed,

Franklin H Ernst Jr

P.O. Box 3009
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February 24, 1993

To: Delta Protection Commission Appointees

COUNTY SUPERVISOR APPOINTEES

Tom Torlakson, Sup Dist #5 Contra Costa, 651 Pine St, #106, Martinez, 94553
C Tobias Johnson, Sup Sacramento, 700 H St #2450, Sacramento, 95814
George Barber, Sup San Joaquin, 222 E Weber Av, Stockton, 95202
B Skip Thomson, Sup (designee) Solano, Courthouse, Fairfield, 94533
Mike McGowan, Sup Yolo, 625 Court St, Woodland, 95695

CITY COUNCIL APPOINTEES

Joel Keller, Mayor Antioch, P O Box 130, Antioch, 94509
Clyde Bland, Mayor Tracy, 325 E 10th St, Tracy, 95376
Heather Fargo, City Council Sacramento, 915 I St #205

RECLAMATION DISTRICT APPOINTEES

Darrell Ferreria, No Delta Water Agncy, 13545 Grand Is Rd, Walnut Grove, 95690
Steve Mello, North Delta Water Agency, P O Box 982, Walnut Grove, 95690
William Salmon, South Delta Water Agency, 7761 Undine Rd, Stockton, 95206
Pat McCarty, Central Delta Water Agency, P O Box 4005, Stockton, 95204
Robert Calone, West Delta(Contra Costa Co), 2035 E Leland Rd, Pittsburg, 94565

GOVERNOR APPOINTEES

Bob Potter, Deputy Dir Dept Water Resources(d), 1416 Ninth St, Sacto, 95814
Boyd Gibbons, Dir Dept Fish & Game, 1416 Ninth St, Sacramento, 95814
John Banuelos, c/o Dept Boating & Waterways, 1629 S Street, 95814
A J Yates, Deputy Dir Dept Food & Agric(d), 1220 N Street, 95814
Dick Troy, c/o Dept Parks & Recreation(d), 1416 Ninth Street, 95814
Charles Warren, Exec Ofc State Lands Commission, 1807 13th Street, 95814

re: Agenda Item VII, Public Comment.

WRITTEN OATH OF OFFICE

On 2/17/93 I sent a letter to each appointee to this commission requesting a copy the written oath-of-office/contract each signed prior to assuming his primary elected or appointed office, that office which qualified him for appointment to this Commission, eg the written oath signed on January 4, 1993 for new term as Supervisor. That same letter of 2/17/93 also requested a copy of the Commission appointee's written oath-contract signed on January 29, 1993 prior to officially becoming a part of this Commission.

These written signed oaths are part of your contracts for the offices you hold. Since February 17th I learned from two they didn't have their oath for this Commission in their possession from the 1/29/93 signing, apparently did not have a copy of it either. "Somebody collected them up."

My request to the appointees to this Commission is:

- 1) Please send me a copy of your written oath-of-office/contract taken when assuming the duties of your qualifying elected or appointed position AND
- 2) Please send a copy of your written oath-of-office for this Commission.

SB 1866 MAP

My best information is that THE MAP reputedly on file with the Secretary-of-State's Office as referenced several times in SB 1866, the legislation which created this body, cannot be found. That map is part of the authority for this body. Without it, this body's authority can be questioned. The absence of that identified map makes for a credibility gap in the authorship of this act.

Respectfully,


Franklin H Ernst Jr

Attached: Copy of 2/17/93 ltr and 1/29/93 public comment

To: Members Delta Protection Commission

February 17, 1993

Member:

PLEASE SEND ME A COPY OF YOUR SIGNED, SWORN OR AFFIRMED, OATH OF OFFICE TO THIS COMMISSION.

PLEASE ALSO SEND ME A COPY OF YOUR SIGNED, SWORN OR AFFIRMED, OATH OF OFFICE TO YOUR PRIMARY ELECTED, REPRESENTATIVE OR APPOINTED OFFICE.

Enclosed is (corrected) copy my Community Forum input at the Delta Protection Commission, Friday, Jan 29, 1993 at the Jean Harvie Comm Ctr, Walnut Grove.

While the Attorney General's Office may have only a casual attitude about the violation of the California Constitutional provisions in Article XI in re this Commission's formation and exercise of power, that does not change the fact.

Mr Douglas Wheeler's choice for your Chairman, Tom Torlakson, is the only member on this Commission elected by the electors to represent Discovery Bay in the unincorporated eastern Contra Costa County. Does Byron have a mayor? While, as Supervisor McPeak writes, Contra Costa County "negotiated" for which portions of Contra Costa County were to be included in the Commission's authority and which excluded (Discovery Bay and Byron?), nevertheless, Contra Costa County Board of Supervisors did negotiate (away?) the Supervisorial, elected, representational authority over parts of its county. What did the Contra Costa County Board of Supervisors get in return?

This writer has yet to find significant elected, representative resistance to this surrender of, usurpation by and subversion of supervisorial authority in Yolo, Contra Costa, San Joaquin or Sacramento Counties. Illa Collin, Sacramento Co Supervisor, reported she was opposed to this legislation. Supervisor C T Johnson is the only member on this Commission elected by the electors to represent the townspeople of Walnut Grove. Tracy's Mayor Bland was not elected by the electors of Walnut Grove to govern their affairs, regulate their destiny governmentally. Fargo of Sacramento City Council was not elected by the electors of Walnut Grove to govern their affairs; nor was Mayor Keller.

To this point, personal review of their records of actions would indicate that Solano County Board of Supervisors has not appointed its representative to the Delta Protection Commission. This apparently is pending receipt of a requested opinion from the California Attorney General's office about the Commission's constitutionality. Why don't you take a look at Article XI of California's Constitution, yourself?

Each mayor, councilman, each county supervisor, each reclamation district director, and each major officer appointed by the governor took and presumeably signed an oath of office to "support and defend the Constitution of the State of California" prior to officially assuming the duties of his primary office. Are oaths and signed contracts of this nature a casual matter for some members? This signed, authoritatively witnessed, oath of office is the contract with those over whom you have authority by virtue of your position.

PLEASE SEND ME A COPY OF YOUR SIGNED, SWORN OR AFFIRMED, OATH OF OFFICE TO THIS COMMISSION. PLEASE ALSO SEND ME A COPY OF YOUR SIGNED, SWORN OR AFFIRMED, OATH OF OFFICE TO YOUR PRIMARY ELECTED, REPRESENTATIVE OR APPOINTED OFFICE.

Respectfully,

Franklin H Ernst Jr